



Federal Communications Commission  
Washington, D.C. 20554

September 14, 2012

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Re: Consumer Information and Disclosure Public Notice CG Docket No. 09-158, CC Docket No. 98-170, WC Docket No. 04-36

Dear Ms. Dortch:

On August 29, 2012, representatives of broadband providers, public interest groups, companies, and other organizations met in person and via conference call with Commission staff to discuss the Commission's 2012 broadband measurement and performance program to discuss the next planned report, which will focus on data collection in September as the baseline month.<sup>1</sup>

Mr. Walter Johnston, Chief Electromagnetic Compatibility Division (EMCD) began the meeting by introducing Sam Crawford from SamKnows to discuss the current state of readiness for the September reporting period. Mr. Crawford indicated that there were no major issues to report and they were ready to proceed with the collection of test data beginning in September.

Mr. Johnston next discussed a non-disclosure agreement (NDA) that had been drafted by Mr. James Miller of the FCC and had been distributed to the WebEx attendees. The NDA built on the experience of the last report and would grant test site operators access to test data for the limited purpose of network analysis and support. Under the NDA, data could not be made public until the data were published by the FCC. David Young from Verizon inquired whether ISP test site operators could also sign the NDA. After some discussion, it was decided that this would be acceptable and could have some value to those ISPs operating test sites as it would allow them access to raw data files. Comments on the NDA were requested by the next meeting.

Next, Mr. Johnston noted the progress in the ng Architecture Working Group. A work proposal for a data collection architecture had been submitted as planned on August 22, 2012 to the Broadband Forum. In addition, Henning Schulzrinne, CTO/FCC has been working on a draft submission to the IETF focused on broadband metrics, which is planned for submission to the IETF by September 24, 2012. It was agreed this draft would be circulated to participants attending the meeting for general comment when it was ready. In addition, Mr. Johnston noted that there had been discussion on involving other standards groups in broadband performance measurement standardization efforts. It was noted that there are significant liaison activities between the major standards organizations as a standard practice. In addition, ng Architecture Working Group remains open to involving additional organizations. Mr. Johnston requested that

if other organizations be proposed, it be in conjunction with a volunteer liaison from the participants that can help shepherd the work within the group as Henning Schulzrinne is doing for the IETF effort and Ken Ko and Michael Bugenhagen are doing for the Broadband Forum.

Mr. Johnston briefly noted that the Measuring Broadband America program had been submitted to the Institute for Advanced Analytics at North Carolina State University for review and that the proposal had been accepted. The submitted proposal detailed a review of the process, methodology, statistics and accumulated data within the program. This review would provide an opportunity to evaluate and improve the overall data collection process. Mr. Johnston asked the ISPs to let him know if they wished to be contacted as part of this process and who appropriate contacts within the organization would be.

Mr. Johnston next discussed the legacy modem issue which had been presented at the last meeting. This involved customer modems that were not capable of attaining provisioned network speeds and where, for various reasons, the customer chose not to upgrade the modem. Data presented at the meeting indicated that at present this issue largely affects only one company. However, Steve Morris of NCTA noted that the MBA program focused on the speed delivered by the network and needed therefore to discount consumer actions that interfered with this delivered speed. There was a split view among participants with some arguing that a policy change regarding the issue of legacy modems should not be enacted for the next report and others suggesting that this would be a growing problem and a policy change was warranted.

Mr. Johnston noted that there was time to resolve the problem and indicated that he would be engaging the ISPs in conference calls in further discussion on this issue. He suggested that participants consider whether a policy change is warranted for the next report and what criteria should determine if a change was warranted. No final resolution was reached on this issue at this meeting.

Mr. Michael Bugenhagen, Century Link, raised the issue of a future charter for the group. He noted that the original goals to document performance of the major ISPs had been accomplished. It was agreed to carry this forward as a task and the group would focus on establishing a forward looking charter reflecting both goals and past progress.

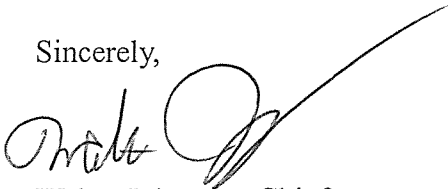
The issue of company branding and identification was next discussed. Mr. Johnston noted that the FCC staff had intended to follow the lead of the Section 706 Report in identifying company entities, noting that several mergers had occurred and the merged companies would be reported as single entities. However, he noted that in discussion with some ISPs they had indicated that they still maintain the legacy company brands and have not merged the networks of these entities. Therefore it was suggested to retain the entities identified in the July Report for the purpose of the next report. After some discussion, this position was adopted.

A discussion followed on the release of the “raw data”, the unprocessed data files collected from March 2012 through the present time. Mr. Johnston distributed a new draft of a disclaimer statement which noted that the data contained anomalies and that the FCC would not use certain periods of the data in any comparative analysis of the ISPs. Ms. Meredith Whitaker from M-Lab indicated that by the next meeting she would present an analysis of the data impact from the anomalies and would propose language reflecting this in a statement to accompany the data. This issue was therefore held over to the next meeting.

Finally, Mr. Johnston introduced some new participants in the collaborative. He announced that ViaSat, a satellite ISP, would participate in the next report. Mr. Johnston noted that there had been ongoing discussions with ViaSat and that with the launch of a new generation satellite, the company had agreed to participate in the study. In addition, he announced that Level3 had established a research network to support Internet research projects, and that the FCC had reached agreement with Level3 to include their servers in the MBA data collection infrastructure. Integration of Level 3 servers in the program would likely occur during September, with data from the servers being available for auditing purposes. As discussed previously, data included in the upcoming Measuring Broadband America report would be based exclusively on data collected by M-Lab servers.

Discussions for a coming meeting in three weeks were discussed and the meeting was adjourned.

Sincerely,

A handwritten signature in black ink, appearing to read 'Walter Johnston', with a long, sweeping horizontal line extending to the right.

Walter Johnston, Chief  
Electromagnetic Compatibility Division/OET

## Attendees

Name	Organization
Ken Koh	Adtran
Jeb Benedict	Centurylink
Michael Bugenhagen	Centurylink
Carl Leuschner	Charter
Christin McMeley	Charter
Christopher Avery	Charter
Dave Rodrian	Charter
John Jay	Corning
Anita Dear	Cox
Martin Corcoran	Cox
Paul Cain	Cox
Alec MacDonell	FCC
Daniel Kirschner	FCC
Henning Schulzrinne	FCC
James Miller	FCC
Walter Johnston	FCC
Matt Mathias	Google
Meredith Whittaker	Google / M-Lab
Jim Partridge	NCTA
Steve Morris	NCTA
Thomas Gideon	New America Foundation / M-Lab
Alex SalterSam Crawford	SamKnows
Neil Campbell	SamKnows
Racheal Neish	SamKnows
David Young	Verizon